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ABSTRACT

The Freedom of Speech Newsletter is the communication medium for the Freedom of Speech Interest Group of the Western Speech Communication Association. The newsletter contains such features as a statement of concern by the National Ad Hoc Committee Against Censorship; Reticence and Free Speech, an article by James F. Vickrey discussing the subtle restrictions on the free flow of information and ideas encouraged by modern mass media practices; On Teaching the Bill of Rights by William Olds; and Freedom of Speech and Censorship by Thomas Tedford, a bibliography which lists twelve paperbacks for teachers and students. (TS)

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FREEDOM OF SPEECH NEWSLETTER

With the beginning of the academic year comes the attitude of good intentions, new and insightful research, and novel ways to effect our charges. This Bicentennial yea. will be an important year for those of us concerned with constitutional rights for we will see and hear much relating to our fundamental freedoms, specifically "freedom of speech". Over the summer have we been intraspective to the point of asking ourselves, "Does our class material work"? A response of "No" would be ludicrous. If the response is "Yes", one assumes a measuring "standard" has been applied. However, if the sponse is "I do not know", we have an honest though irresponsible colleague. Participatory Observation is a means avail to us to fulfill our responsibility in finding out if our classroom presentations are valid.

At last year's WSCA Convention, Janice Rushing of USC presented a paper - "Participatory Observation: A Neglected Method for Small Group Communication". Though the problems of participatory research are well known to our profession, she lists several advantages we might well consider: 1."it elevates description to an equal status with prediction"; 2."allows the researcher to observe the group throughout its duration"; 3."avoids the self-fulfilling prophecy by concealing the researcher's role"; 4."avoids meaningless questions by focusing on the group from the member's viewpoint"; 5."allows the researcher to develop his theory as he observes"; and, 6. allows the researcher "to study more than one theory in the same project".

In order to know if our studies and pronouncements concerning freedom of speech are of any worth, we must "put them on the line". We and our students must become personally, actively involved with issues that relate to our freedoms of speech, press, assembly, petition, and religion. As Attorney Kunstler notes in Deep In My Heart - "that only by personal involvement can one justify his existence, either to himself or to his fellows". We must earn the right to be in the classroom developing attitudes. Our special interest does not allow us to be "scholars" alone; we must be "participatory scholars".

In this Bicentennial year, we have the communication environment well established which reflects the rhetorical activities of those patriots 200 years ago who put their lives on the line for the specific human rights some merely prattle about. Let's prove to ourselves and our charges that those freedoms have not fallen into atrophy; let's prove that those rights are alive as exemplified by cur words and and actions.

VOLUME II NUMBER 1 SEPTEMBER 1975

FREEDOM OF SPEECH INTEREST GROUP OFFICERS:

Chairperson
Nancy McDermid
Dept. of Speech Communication
San Francisco State University

Vice-Chairperson
John Hammerback
Dept. of Speech Communication
California State University
Hayward

Secretary
John Healy
Dept. of Speech Communication
California State University
Long Beach

ARTICLES:

RETICENCE AND FREE SPEECH
by James F. Vickrey, Jr.

ON TEACHING THE BILL OF RIGHTS
by William Olds

FREEDOM OF SPEECH AND CENSORSHIP
A Dozen Paperbacks for Teacher and Student
by Thomas Tedford

ANNOUNCEMENTS:

-She Made It Possible-

Gratitude is sincerely extended to Nancy McDermid (San Francisco State) for taking on the duplicating and mailing responsibilities for the past issue of the Newsletter. Without this assistance, the publication would never have been produced.

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-More Thanks-

Again, to Nancy McDermid and San Francisco State; John Hammerback, California State University, Hayward - Through these pepole and institutions it was possible for this Newsletter to be mailed.

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**-The Deadline for the November issue article submissions is November 1- **

Freedom of Speech Newsletter is the communication medium of the Freedom of Speech Interest Group, Western Speech Communication Association. The Newsletter is published four times per academic year in September, November, February, and April.

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CONVENTION PREVIEW

The Freedom of Speech Interest Group of the Western Speech Communication Association will be presenting the following panels at the annual W.S.C.A. Convention. Be sure to note the hours and days - support your colleagues - attend all three panels!

"SEXUAL FREEDOM AND THE FIRST AMENDMENT" TUESDAY, NOVEMBER 25, 8:30 a.m.

Chairperson: Nancy Gossage McDermid, San Francisco State University

Participants: Haig Bosmajian - University of Washington
"Obscene, Lewd, Lascivious Thoughts and Freedom of Speech"
Jennifer James - University of Washington (Department of Psychiatry and Behavioral Sciences)
"Commercialized Sex: A Matter of Class and Taste"
Sally Gearhart - San Francisco State University
"A Queer Interpretation of the First Amendment: 'Homosexual' Acts Between Consenting Adults"

Note: This panel is co-sponsored by the Women's Caucus, W.S.C.A.

"NO PLATFORMS FOR NAZIS, RACISTS, RADICALS,...OR, AGITATORS AND THE FIRST AMENDMENT" WEDNESDAY, NOVEMBER 26, 8:30 a.m.

Chairperson: Winfred G. Allen, Jr., Ambassador College

Participants: Thomas B. Farrell - University of California, Los Angeles
"Strategic Politics and Free Speech:The Warrant of Agitation"
Karen Rasmussen - University of Utah
"Wayne Booth's Rhetoric of Assent: Implications for Agitation and the First Amendment"
Ray D. Weisenborn - Montana State University
"A Comparative Study of Agitation: Hitler and Rockwell"
Henry McGuckin - San Francisco State University
"Audience Outrage and Freedom of Speech"

(continued)

CONVENTION a

"NO ACCESS FOR OBSCENITY, RIGHT TO REPLY, CITIZEN ACTIVISTS,...,...,
OR, MEDIA AND THE FIRST AMENDMENT" WEDNESDAY, NOVEMBER 26, 10:10 a.m.

Chairperson: Kenneth D. Bryson, Montana State University

Participants: Richard Krause - University of New Mexico
"Broadcast Media and the First Amendment: The 'TORNILLO Case'"
Greg Palmer - Radio Producer and Writer (Currently producing series funded by National Endowment for the Humanities)
"Broadcast Media and the First Amendment: The 'KRAB-FM Case'"
Aneke-Jan Boden - Eastern Montana College
"Size of Broadcast Industry as an Influence on First Amendment Rights of Citizens"
Robert A. Senser - Montana State University
"Concepts of Media Censorship: Contrasts Between Public and Broadcaster Views"

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ESSAYS SOUGHT

Empirical, critical-legal, and historical research as well as original essays are now being considered for publication in the 1976 FREE SPEECH YEARBOOK. Turabian (3rd Ed.) required. Submit articles to :

Alton Barbour, Editor
FREE SPEECH YEARBOOK
Dept. of Speech Communication
University of Denver
Denver, Colorado 80210

REFERENCES SOUGHT

Ralph McCoy (Southern Illinois University) is updating his FREEDOM OF THE PRESS bibliography (S.I.U. Press, 1968). He welcomes "any important references that I might have missed in the earlier work as well as more recent references from obscure sources".

Ralph E. McCoy
1902 Chautauqua Street
Carbondale, Illinois 62901

***

The NEW YORK TIMES, Monday, March 31, 1975: "Los Angeles, March 30 - Undercover police officers who sit in on college courses merely to compile intelligence reports on faculty and students violate First Amendment guarantees of free speech in the state's new invasion of privacy law, the California Supreme Court declared last week...'Given the delicate nature of academic freedom, we visualize a substantial probability that this alleged covert police surveilance will chill the exercise of First Amendment rights and also constitutes a prima facia violation of the explicit 'right of privacy' recently added to our State Constitution', the court said in a unanimous opinion...The case is thought to represent the first instance in which a court has confronted the issue of police surveillance on a university campus".

NATIONAL AD HOC COMMITTEE AGAINST CENSORSHIP

STATEMENT OF CONCERN - JANUARY 1975

The steady erosion of First Amendment rights, stemming from the Supreme Court's 1973-74 obscenity holdings, menaces ever more critically the freedom of communication that is the indispensable condition of a healthy democracy. In a pluralistic society it would be impossible for all people at all times to agree on the value of all ideas; and fatal to moral, artistic and intellectual growth if they did.

Some of the undersigned organizations reject all barriers abridging access to any material, however controversial or abhorrent to some. Others reject barriers for adults, so long as their individual right of choice is not infringed. All of us are united in the conviction that censorship of what we see and hear and read constitutes an unacceptable dictatorship over our minds and a dangerous opening to religious, political, artistic and intellectual repression.

(This statement was approved by the Legislative Council of the S.C.A., December, 1974, at the National Convention in Chicago. Item submitted by Thomas Tedford.)

***
*

MEMBERS OF THE COMMISSION ON FREEDOM OF SPEECH - S.C.A.

*Three-year terms - expires at end of 1977:
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Ruth McGaffey, Dept. of Communication, University of Wisconsin, Milwaukee, Wisconsin 53092
James Vickrey, University Relations, University of Southern Florida, Tampa, Florida 33620

(Item submitted by Robin Cantor, Assistant to William Work)

RETICENCE AND FREE SPEECH:

Subtle Restrictions on the Free Flow of Information and Ideas Encouraged by Modern Mass Media Practices

by

James F. Vickrey, Jr.

Director, University Relations
University of South Florida

"That primary reason for free speech...is that it encourages and ensures the free flow of information and ideas required for the creation and continued existence of a free and open society."

"Free speech,"[1] to be a reality in our society, requires the concomitant existence of two conditions. The first is the capacity (political, psychological, and physiological) of citizens to speak. The second is the inclination of citizens to speak. Much has been written about the first condition - and the many methods of incapacitating citizens by suppressing or restricting their exercise of free speech. Indeed, most books and articles on the subject focus on the nature, efficacy and propriety (legal and otherwise) of such deterrents to free expression. Less attention, however, has been given to the second condition - and its converse - to what might be called the disinclination of citizens to speak freely, particularly, citizens in elective and appointed positions in government at all levels. This disinclination - this reticence - of public officials[2] to speak freely and its causes and effects are the subjects of this paper.

Many reasons can be and have been articulated for permitting free speech in a republic such as ours.[3] One reason seems to be paramount, for without the condition expressed by it the nature of our form of government - and of our society - would be fundamentally altered. That primary reason for free speech, which provides the critical operative assumption upon which the arguments in this paper are based, is that it encourages and ensures the free flow of information and ideas required for the creation and continued existence of a free and open society.[4] For that reason, all citizens should have more than a casual interest in ensuring the existence of free speech in the republic. Without it, few if any, of us would have access to the information and ideas needed to make the many personal, professional and political decisions so increasingly a part of modern life. Forces tending to restrict such access, therefore, must be carefully examined, and ultimately, it is assumed, opposed, for they constrain our capacity to function effectively in the age of Toffler's "future shock" and McLuhan's "global village".

In addition to this most basic assumption about the reason for or purpose of free speech in our society, five other assumptions are operative within this paper, providing a kind of theoretical framework for the ideas developed here:

1. The rapid dissemination of information and ideas (what is generally, but not universally, called "news) to members of the public is an increasingly important criterion for their effective participation in all aspects of American society.

2. The primary source of the information and ideas upon which most Americans make their political and professional, as well as many of their personal, decisions is the mass media (particularly, television, radio and newspapers).

3. Most Americans accept as fact and essentially uncritically most of the information and ideas they receive via the mass media, the primary exception being perhaps news about which they have personal knowledge and/or involvement.

4. The formats of the information and ideas most Americans consume via mass media are primarily headlines and brief, capsulated "stories", arguably inadequate purveyors of complete and sometimes even accurate statements of reality (a conclusion to be addressed more fully below), which, of course, raises subtle ethical issues regarding the problem of responsibility in modern mass communications.

5. The mere existence of modern means of mass communication has resulted, in many contexts, in an increase in the flow of information and ideas to the public from otherwise sequestered sources and to increasingly strong demands for more. Note these recent examples: unauthorized publication of the "Pentagon Papers"; regular "exposes" by Jack Anderson, relying on unnamed sourses in government; and, the continuing Watergate revelations. Without the everpresent and dogged determination of mass media reporters to dig out "news", many of the most important activities of government in our time might still be unknown to most of us.

6. The power of the media to report news and make revelations without constraints as to formats sometimes encourages a reticence to speak - a disinclination to speak - on the part of the person reported, which is the subject of this paper.

So, in our time, a subtle barrier to the free flow of information and ideas has evolved. It is quite unlike the traditional barriers, such as external censorship or economic reprisal or even self-protecting, self-censorship. It is much more subtle in its effect. This new barrier is the increasing tendency of citizens in government (public officials) not to speak openly and candidly about matters for which they are responsible, what is called here reticence.

Of course, this phenomenon of reticence is not really new; public officials have historically been reluctant to make other that self-serving statements for public consumption, especially when official

actions or interaction are being questioned. What is new,however,about this fact of modern life is its increasing prevalence and persuasiveness, as a result of which it is a much more serious problem than ever before. And this is so primarily because of our increasing need for information and ideas in a media-permeated society.[5] This need is reflected in recent citizen and media demands for and enactment of "government in the sunshine" and "open records" laws throughout the country, and media preoccupation with ensuring the maximum flow of information and ideas about all aspects of American life, particularly government at all levels - almost without regard to the consequences on people or the body politic.

"In our time, few public officials will make direct responses to direct inquiries and their official documents (memoranda, reports, etc.) increasingly reflect the same approach ..."

Types of reticence among contemporary public officials, while not new, are increasingly numerous, ranging on a spectrum of types of virtual silence at one end, to statements of "no comment", to carefully guarded, usually verbose, highly tentative verbal expressions which more frequently cloud than clarify the matters being discussed, to deliberate deception at the other. I recognize but am excluding from consideration here outright lying and deliberate distortion of facts, for I find such practices to be rare.[6] Ethical questions are not thereby excluded, however, because of the consequences of the reticence encouraged,and the practices and attitudes listed below.

Examples of reticence abound in daily newspaper and radio and television news reporting of public officials' responses to media inquiries. In our time, few public officials will make direct responses to direct inquiries and their official documents (memoranda, reports, etc.) increasingly reflect the same qpproach to expressing themselves to others: avoidance of some subjects altogether, offering "no comment" on others, and discussing still others in bureaucratism so difficult to translate that frequently no effort is even made to do so.

Causes of such reticence are numerous - and include the human tendency to want to avoid negative criticism, especially of the public variety, which in recent years has resulted in deliberate distortion and outright lying by public officials, neither of which of course, can be justified. A major cause of the maximization of the frequency and type of reticence being considered here is, in my judgement, the mere existence of modern mass media. Their insatiable appetite for communicating as much information and as many ideas as possible as soon as possible has resulted in the enactment of the "sunshine" and "open records" laws to appease that appetite, as well as to ensure greater citizen access to government decision-mating - an access, the need for which, to some extent, is itself media-induced. In such an environment, even the most conscientious public servants become more and more reluctant to express themselves candidly because of their inability to control or even to have a significant impact on the manner in which and the frequency with which their expressions are communicated to the public via the mass media. Few public servants there are today who have not been "stung" by media coverage of a remark or record expressed in direct or candid terms.

Two national examples illustrate the point: reporting in 1968 of George Romney's casual remark that he was "brainwashed" during briefings in Vietnam, or Secretary Butz"s comment in late 1974 about the Papal position on population control.

To be more specific, a major cause of the growing reluctance of public officials to speak openly is the impact of traditional journalistic practices (and attitudes) on the way the public receives news today. These practices (and attitudes) frequently result in a distortion (usually undeliberate, I am confident) of reality and consequently of the news which an information-hungry public consumes, almost unconsciously. These practices (and attitudes) include the following:[7]

> 1. Preoccupation with speech ("timeliness") often at the expense of complete and unbalanced coverage.
>
> 2. The prevalence of the assumptions (which I am convinced can accurately be labelled arrogant assumptions) that: all secrecy in government is evil;[8] all media critics are simply expressing disfavor with non-favorable coverage of matters of concern to them;[9] journalists are somehow essentially "different" from other people;[10] and, that the media are themselves essentially immune from critical examination by other media.[11]
>
> 3. Oversimplification of facts to make them "fit" into preconceived notions about appropriate journalistic formats.
>
> 4. A general reluctance to admit error and virtual refusal to correct it as conspicuously as it was committed.
>
> 5. Inaccurate (untrue) or inappropriate (not justified by what follows) headlining and capsuling of complex or confusing subjects.[12]
>
> 6. Sloppy writing (or speaking, in the case of radio/tv) which includes inappropriate people-labeling...and media cliches.

These comments are not meant to and should not be interpreted to downgrade modern reporters. Most of them are as conscientious as are most of the public officials they cover. Nevertheless, they are a part of a system of journalism that necessarily distorts reality because of such factors as the practices (and attitudes) noted. Such distortions raise serious ethical questions about such practices and attitudes.

The effects of reticence are subtle but all too obvious and, unfortunately, numerous. Two effects are most bothersome, in my judgement: a quantitative restriction on the free flow of information and ideas and a qualitative restriction on the way in which information and ideas are communicated.

In the face of growing pressures for "openness" - almost at all costs - and media needs for more and more news, public officials become increasingly reluctant to say anything at all on some subjects - unless

they have to, thereby restricting the quantity of information and ideas. And when they find themselves forced to express themselves, they increasingly do so in ways not designed to maximize clarity of expression, but in ways calculated to keep options open and to prohibit media exploitation of an ill-advised but, nonetheless, casual and innocent comment about some matter of current public interest, thereby restricting the quality of the information and ideas expressed.

Three suggestions appear worthy of consideration as possible ways to minimize the restriction being discussed here. First, restraint should be exercised by the media in requesting and lawmakers in enacting"openness" legislation. Second, the media should re-examine the traditional attitudes and practices described above and consider changes likely to ensure more accurate representations of reality. Third, a rededication of responsible public officials to open government should be exacted to minimize perceived need of the media and lawmakers to impose it - usually with a vengance.

Ultimately, the most compelling reason why the media should treat public officials as fairly as possible and lawmakers should enact openness legislation with restraint is that to do otherwise is to restrict rather than to increase the flow of information and ideas in our society. To encourage those results is the major reason for my writing this paper.

But, as a public official, I also recognize the subtle and insidious impact of the bureaucratic mentality on me and my colleagues, and, for that reason, believe that, as we call for restraint, we must rededicate ourselves to openness in government and to the continuing battle against the "special interests" both within and without the bureaucracy that make openness difficult to ensure. Such a rededication can be encouraged through groups like SCA and its new Committee to foster responsible governmental communications.

In light of the comments made here - and the inevitable misconstruing to which they will be subject - perhaps, I should conclude by expressing my agreement with Jefferson, when he wrote in 1787 in a letter to Edward Carrington:

> The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers and be capable of reading them.

(Ed. Note: This article has been edited for reasons of publication space)

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FOOTNOTES

"RETICENCE AND FREE SPEECH"

1. It should be understood that such terms as "speak", "speech", and "speaking" are used for convenience and consistency. They include in this context virtually any human communicative behavior, particularly those behaviors or forms of expression protected, as examples of "free speech", by the First Amendment to the U.S. Constitution. For the types of "speech" protected see Robert M. O'Neil's excellent little paperback book Free Speech: Responsible Communication Under Law, 2nd edition (Indianapolis: Bobbs-Merrill, 1972), Chapter 1.

2. This paper is limited to public officials (though doubtlessly applicable to non-public officials) in an effort to provide a more narrow focus (increasing, it is hoped, comprehensibility) and to ensure greater accuracy (for the author's personal experience is more extensive in that area).

3. Four reasons for or objections or values of free speech have been summarized by Yale Law School Professor Thomas I. Emerson in his comprehensive study on The System of Freedom of Expression (New York: Random House, 1970), pp. 6-7; 1.) It is "essential as a means of assuring individual self-fulfillment."; 2.) It is "an essential process for advancing knowledge and discovering truth."; 3.) It is "essential to provide for participation in decision making by all members of society."; and, 4.) It provides "a method of achieving a more adaptable and hence a more stable community, of maintaining the precarious balance between healthy cleavage and necessary consensus."

4. The masthead of the Birmingham Post-Herald newspaper epitomizes widespread media acceptance of this view: "Give light and the people will find their own way."

5. Some of the public's perceived "need" for media-supplied news is media-induced. See Daniel J. Boorstin's The Image: A Guide to Pseudo-Events in America (New York: Atheneum, 1972), pp. 36-37.

6. This does not mean, however, that reticence as such does not generate ethical problems. Thomas R. Nilsen's excellent treatise on the Ethics of Speech Communication, 2nd edition (Indianapolis: Bobbs-Merrill, 1974) includes an interesting, relevant discussion of "The ethics of information" (pp. 71-76). The perceptive reader may also recall Lippman's famous distinction between "news" and "truth".

7. It should be emphasized that the common complaint of media critics - that reporters are biased, leftist, or part of the "Eastern establishment" - is not one of the practices or attitudes listed here because I am convinced that the complaint is virtually groundless. The practices and attitudes indicated here apply more directly to print than to broadcast media though similar statements (with minor modifications) could be made about broadcast media.

[8].An informative and interesting defense of retaining some secrecy in the decision-making process is Harlan Cleveland's "How Do You Get Everybody In On The Act And Still Get Some Action?" in the Educational Record (Summer, 1974), pp. 117-182.

[9].If all reporters had the experience of the few who have themselves become the subject of news stories, all would be less likely to jump to the conclusion that cirticism is only the result of dissatisfaction with "having been found out."

[10].See Michael Novak's essay "Whay the Working Man Hates the Media", published in October, 1974, for a devastating refutation of this assumption.

[11].In a dated but useful book, Wilbur Schramm (Responsibility in Mass Communication New York: Harper and Bros., 1957) notes: "One of the most puzzling characteristics of American newspapers and broadcasting, however, is the extreme scarcity of good criticism of newspapers, radio, and television in these media, and their considerable sensitivity to criticism from any other quarter" (pp213-214). He also quotes the St. Louis Post-Dispatch: "The newspapers of the United States are strong for the unrestricted right to criticize public officials and individuals they do not like. But many of these same newspapers become suddenly allergic to the idea whenever criticism pertains to the press itself" (p.216).

[12].According to Rober Haiman, Managing Editor of the St. Petersburg Times, om a seminar at USF, increasingly, newspapers will utilize devices to enable readers to read them faster: more digests, more indexes, more condensation - all in order to compete with TV and with readers' apparent desire to consume more in less space and more rapidly. If this assessment of one future trend be accurate, then the problem addressed here will be compounded.

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From J. Vickrey

Can you swear if you hit your thumb with a hammer
Without risk of spending six months in the slammer?

The United States Law Week
(43 LW 2435)

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- A man's country is not a certain area of land, of mountains, rivers, and woods, but it is a principle; and patriotism is loyalty to that principle.-

George William Curtis

ON TEACHING THE BILL OF RIGHTS

by

William Olds

Executive Director
Connecticut Civil Liberties Union

"It is important that our young people become convinced that our constitution is a living reality, not parchment preserved under glass."

"One of the most important aims of the school," declared a federal court almost ten years ago, "should be to educate the individual to live successfully with other people in our democracy."[1] Unfortuanately, there are enormous gaps between democratic ideals and meaningful Bill of Rights learning in our public schools. Most students graduate from our elementary and secondary schools without having formed any basic understanding of the Bill of Rights.

Too often, students, until they reach the age of adulthood, are perceived as persons who need not be concerned with the Bill of Rights and other constitutional guarantees. The schools believe they should be the passive recepients of information which, through some mystical process, will teach them the responsibilities of citizenship when they reach adulthood. This perception of students must be discarded if they are to learn the true meaning of the Bill of Rights. In the long run, a meaningful understanding of legal and constitutional principles could have a profound effect on influencing society's vlaues and its moral concerns. The present approach in most schools towards teaching these principles is narrow and lifeless. It is perhaps impossible to effectively deal with this area so long as our schools ignore the constitutional rights of students. We need to incorporate into our school curriculums the guiding principles of the Bill of Rights and its root concepts. It must become part of the life of students just as it must become part of the life of all of our citizens. In 1972, the Fifth Circuit Court of Appeals expressed a similar concern. It declared -

> One of the great concerns of our time is that our young people, disillusioned by our political processes, are disengaging from political participation. It is most important that our yound people become convinced that our constitution is a living reality, not parchment preserved under glass.[2]

A research project funded by the U.S. Office of education through the Columbia University Teachers College found: "A large majority of the students feel they are regularly subjected to undemocratic decisions. These are seen as unilateral actions by teachers and administrators that deny fundamental rights of persons to equality, dissent, or due process." The survey suggested that the great majority of students in secondary

schools is becoming "increasingly frustrated and alienated by school. They do not believe that they receive individual justice or enjoy the right to dissent, or share in critical rule-making that affects their lives."

Students, like other individuals in society, want to become relevant to their society, but they don't know where to take hold, and the schools generally prevent them from understanding how to find their role in society. Joel Henning, the former director of the Special Committee on Youth Education for Citizenship of the American Bar Association, estimates that less than 1 per cent of the more than 60 million elementary and secondary school students have received any meaningful law-related education. Equally important, he notes that few of our teachers have had any pre-service training in law-related subjects.[4]

Others agree. Historian Henry Steele Commager has criticized the double standards regarding the Bill of Rights and its application to society. He states -

> Society rewards pupils who can recite the Bill of Rights, but shows no serious interest in the application of these rights to tiresome minority groups...It expects schools to teach the primary value of the mind and the spirit, but itself prefers the rewards of more materialistic teaching. It expects schools to bring home to the young the great truth that justice is the end of government, but itself practices injustice in almost every area of public life.[5]

More than 25 years ago, a booklet prepared by the National Council for the Social Studies declared -

> Developing knowledge and understanding of human rights is no easy assignment. But it is essential to our future. Too often, schools and communities feel little concern for these problems. There is a dangerous lack of information even at the simple level of knowing the basic civil liberties to which we are morally and constitutionally committed.[6]

Regretfully, that position appears to have had little impact upon our public schools.

There is considerable evidence that the public at-large lacks an understanding of and is insensitive to the Bill of Rights. Research conducted by the National Assessment of Educational Progress - a project of the Education Commission of the States - demonstrated that American citizens, young and old, are willing to support, in principle, the fundamental human rights guaranteed by the Bill of Rights. However, a substantial majority refused to support the Bill of Rights when specific application are at issue. The CBS television network in 1970 conducted a study of attitudes toward constitutional rights. The CBS poll was based on a nation-wide telephone sample of more than 1100 randomly selected adults. Seventy-six per cent of the respondents disagreed with the Bill of Rights, declaring that individuals do not have the right to organize

protests against the government. Over fifty percent of the respondents did not agree with three other basic rights. These were the right of the news media to report any story, the prohibition against a lengthy pre-trial detention of suspects, and the prohibition against double jeopardy. However, the right to a public trial was supported by seventy-five per cent of the respondents, and the right to a trial by jury received eighty-two percent support.[7]

A 1970 Wayne State University study indicated that college students respondents were more supportive of the Constitution than the CBS respondents. However, only fifty-five per cent of the student respondents agreed that suspects should not face lengthy detentions, compared to thrity-eight per cent of the CBS respondents. The university study also disclosed that thirty-eight percent of blacks achieved a high score on constitutional guarantees, compared to only thirty per cent of whites. Generally, younger people were more supportive of the Bill of Rights. The study also suggested that sensitivity to constitutional guarantees does not increase substantially with a rise in income. Support was found to come "primarily from among blacks, the young, low income persons, and students."[8] As expected, Wayne State's study found that Americans are very selective in their support of the Bill of Rights - supporting those guarantees which personally benefit them.

> "Students are not taught that the Bill of Rights represents a set of restraints on the power of government over individual rights, and that this is the backbone of our democracy"

A Purdue University study among teen-agers showed an apalling lack of knowledge of the Bill of Rights.[9] What is equally disturbing is that college students do not do much better on their knowledge of constitutional guarantee.[10]

Studies funded by the Danforth and the Ford Foundations indicated that, at the high school level, "The traditional formal programs in political education have little or no positive influence on political beliefs and behavior, in or out of school."[11] The present U.S. Attorney General, Edward Levi, when he was President of the University of Chicago, declared that the schools were avoiding the "hard questions and the learning...concerning the relationships between the individual and the state...always viewed as important for citizenship."[12]

The Columbia University Teachers College study, described earlier in this report, concluded that themajority of secondary school students view "dilemma in democracy" referring to a situation in which they cannot cope with an experidnce of injustice. The students' main concern was with the decision-making process rather than due process, equality, or dissent. The study indicated that students frequently complained of alleged arbitrary behavior on the part of teachers. The students felt they had no alternatives for action and perceived that they were in a situation of great helpless ness. Most students were angry and hostile at the schools. The report declared: "For the high school student, the gap between civic theory and civic experience is enormous."[13]

The evidence indicates that most Americans view the Bill of Rights

with a self-interest perspective. They view the guarantees as protective devices for what they consider to be the acceptable segments of America. However, they do not view those same guarantees to support the rights of the "obnoxious" and the "umpopular". Clearly, the schools have failed to incorporate into their curriculums a meaningful Bill of Rights education.

At the present time, elementary and secondary public school students are presented with an edited and cosmetic version of the Bill of Rights. There is a tendency to avoid controversial issues - and teaching the Bill of Rights in a meaningful fashion can be "controversial". Most of the material deals with issues of a remote yesteryear which is lifeless and unstimulating to students. Most social studies courses fail to deal with the relationship of today's individual - including students - to government and constitutional rights. As a result, few students have any real exposure to meaningful, law-related education. There is evidence which strongly suggests that teachers are uncommitted to the principles exposed by the Bill of Rights.[14] When teachers avoid "controversial" political subjects in favor of "safer" subjects, there is evidence that the potential for transmitting political values is considerably weakened.[15]

David Schimmel and Louis Fischer, both lawyers and professors of education at the University of Massachusetts, have declared that most teachers and administrators do not think the Bill of Rights applies to most school situations. "This is because these rights did not apply to them when they were students and because they learned almost nothing functional about this subject during their education." They also point out that many teachers frequently feel that their rights are inherently in conflict with the rights of students. The attitude prevails that "if students get more, teachers have less."[16] Furthermore, it is not uncommon to encounter public school teachers and administrators who are not cognizant of the fact that they are, in effect, government officials, and as such, they are subject to the constitutional restraints spelled out in the Bill of Rights.

"Perhaps it would be well," declared a 1972 Federal Court, "if those entrusted to administer the teaching of American history and government to our students began their efforts by practicing the document on which that history and government are based."[17] Instead, the schools prefer to ignore the considerable disparity between the ideals and the reality of our system of equality and justice under the Bill of Rights. Professor Robert D. Hess of Stanford University argues that the "schools have contributed to divisions within society by teaching a view of the nation and its political processes which is incomplete and simplistic, stressing values and ideals, but ignoring social realities."[18] Hess feels this has created an attitude of complacency and has contributed "to feelings of disillusionment and the consequent climate of protest."

Simply presenting the Bill of Rights in no way insures that students will learn the principles and internalize those principles. The job of the teacher is to present thematerial in such a way as to convert ideas about the principles into an internalization of those ideas. Teachers must recognize that how they teach and how they act can be considerably more influential on students than what they teach. Students learn a host of lessons about the Bill of Rights and its actual implementation by the

way that schools observe the constitutional rights of students. Charles E. Silberman, author of Crisis in the Classroom, says: "These lessons are far more powerful than the verbalizations that accompany them and that they frequently controvert."[19] David Schimmel calls this "legal hypocrisy". He notes that "when an educator tells students to 'obey the rules' and 'respect authority' and simultaneously violates the constitutional rights of the student (or teacher), he or she is teaching a lesson in legal hypocrisy."[20]

A sub-committee on juvenile delinquency of the U.S. Senate Judiciary Committee recently reported that the schools "are embroiled in an escalating crisis of violence and vandalism which seriously threatens to destroy the ability of many of these institutions to educate our children." The study said that destruction of school property cost localities five hundred million dollars a year, the same amount spent on school books. Instead of blaming an oppressive school system which often ignores the constitutional rights of students, Albert Shanker, president of the American Federation of Teachers and head of the New York City Teachers Union, placed the blame on the student rights movement. He was joined in that view by Dr. Owen Kiernan, Executive Secretary of the National Association of Secondary School Principals.[21]

However, Leon Jaworski, the former Watergate Special Prosecutor and the former head of the American Bar Association, stresses that the "hypocrisy which is part of the daily lives of so many of us has produced a natural reaction of disregard and disrespect on the part of the young. They are sophisticated in the main, and they spot phony comments and spurious conduct much faster than many of us assume."

Jaworski points out that "we have failed to adapt course content and teaching techniques to present-day needs in this area of the school's curriculum. We have failed to impress upon children at a receptive age why a free people must rely upon law and its institutions and their relationships."[22]

Jaworski was instrumental in establishing the Special Committee on Youth Education for Citizenship of the A.B.A. The goal of this program is to see that law, like mathematics, is taught throught the school years. The A.B.A. hopes that students will be able to learn to analyze problems more systematically. The former director of the probram, Joel Henning, agrees that the schools have generally done a poor job of teaching the law, and that there is too much rote learning. He also agrees that there is too often a tendency to avoid controversial issues in schools - and yet controversy is at the heart of every legal issue.[23]

> "Without a meaningful educational process involving the Bill of Rights, we will continue to hear the ring of too many empty hypocrisies among our democratic ideals."

Most civics and government courses devote only a few weeks a year to the Bill of Rights. Most of the material is irrelevant to the average student. Little emphasis is placed on the relationship of citizens to their government. Students are not taught that the Bill of Rights represents a set of restraints on the power of government over individual rights, and that this is the backbone of our democracy. As

a result, the schools have promoted apathy and an ignorance of the Bill of Rights.

Courses relating to the Bill of Rights need to deal with current problems. Cases directly relating to student rights should be taught in the classroom. Students should learn what the courts have said about such issues as censorship, freedom of speech, personal appearance, due process, and equality. Presenting a real court case involving student rights will promote a meaningful understanding of the principles of our constitutional guarantees. The most recent cases should be used. In the long run, such an approach would help to develop citizens who know how to use the democratic and judicial processes to achieve their goals. Presenting case studies which are meaningful and relate to the problems of the young would help to create citizens who base their actions on principles.

"Wherever possible," says Justice William Brennan, Jr., "such cases should be presented in terms of fact situations which are closest to the concerns and interests of high school students - for example, in a context of schoo regulations, inter-scholastic athletics, and drivers licenses. If the principles can be first applied and tested this close to home, their transfer to more abstract contexts in which they are more likely to affect adults should be far easier."[24]

Effective civics education involves four inter-related elements, according to the report produced by the Danforth Foundation and the Ford Foundation. These four elements are the classroom content of civics education, expressed primarily in textbooks and curriculum materials; the process of instruction, represented by the modes of teaching and the basic student-teacher inter-action; the organization and administrationof the shcool itself, which represents the daily political world experienced by the school student; and, the relation of the school to the local community, which expresses to students the status of the bureaucracy in terms of its relation to outside political authorities and interests.[25]

An essential element of the education of all teachers should involve the development of understanding the principles of the Bill of Rights. Institutions of high learning must develop the means by which our present and future teachers will emerge with a depth of understanding of these principles.

Students should not leave our school-house gates without a basic understanding of the Bill of Rights. An adequate knowledge of constitutional guarantees is necessary if we are to prevent future Watergates - at any level of government. Education in this area, no matter how controversial the issue, should be held within the framework of free discussion. In addition, the educational process should reflect the spirit of the Bill of Rights and demonstrate constitutional guarantees in action.

The process of education can be more influential than its content in reaching educational goals. School officials must insure that the Bill of Rights is actually practiced within our school walls. This

means that the constitutional rights of all students must be fully respected.

The challenge is to find the means to create a meaningful content of educational courses involving the Bill of Rights. Given society's Basic insensitivity to it, including the insensitivity of many school officials, what is needed is an affirmative promotion of an adequate comprehension and appreciation of our constitutional guarantees. American Civil Liberties Union affiliates and other organization should attempt to act as catalysts for such promotion. In some areas, the local bar association may be willing to join forces, while in other areas, it may be possible to engage the assistance of the State Department of Education. It should be possible to identify at least a few school officials who would be receptive to a meaningful approach. It may be that for some time only a small percentage of the total number of students will be reached - but that is a beginning. Even if a handful are affected, it may be worth the effort in terms of their long-range understanding and support of these goals.

Gore Vidal recently stated -

> From studying the polls, I would guess that about a third of the American people at any given moment would welcome a fascist state. This is because we have never been able to get across in our schools what the country was all about. I suspect that the reason for this failure is the discrepancy between what we were meant to be and what we are...is so plain to children that they regard a study of our Constitution as just another form of television commercial and just as phony. This is sad. Let us hope it is not tragic. The means exist to set things right.[26]

Without a meaningful educational process involving the Bill of Rights, we will continue to hear the ring of too many empty hypocrisies among our democratic ideals. In the long run, an understanding of constitutional principles should have a profound effect on influencing society's values and its moral concerns. There is a compelling societal interest to produce a working - not a theoretical - Bill of Rights.

If the citizen-adults of tomorrow do not learn to value and identify their freedoms, how will they know if those freedoms are being endangered?

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FOOTNOTES

"ON TEACHING THE BILL OF RIGHTS"

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